

MINUTES

COMMISSION MEETING

September 17, 2004

The New Hampshire Public Utilities Commission Meeting began at 3:32 P.M. on Friday, September 17, 2004. Chairman Thomas B. Getz, and Commissioner Graham J. Morrison were present. Also present were the Division Heads, or their designees. The following matters were discussed.

1. Approval of the September 2, 2004 Commission Meeting Minutes

A motion was made by Commissioner Morrison and seconded by Chairman Getz adopting the minutes of the September 2, 2004 Commission Meeting.

2. DW 04-129; Pennichuck East Utility, Inc.
(Petition for Franchise Approval and Rate)

Chairman Getz announced the issuance of Order No. 24, 370, (September 10, 2004). It is an Order Nisi Approving the Franchise Petition and Rates.

3. DT 04-142; Verizon New Hampshire (Verizon)
(Tariff Filing Introducing Enhanced Dedicated SONET Service)

A motion was made by Commissioner Morrison and seconded by Chairman Getz ratifying the September 10, 2004 secretarial letter stating pursuant to RSA 378:3 and RSA 378:6, IV, stating that the proposed revisions to Verizon's Tariff NHPUC No. 83 are effective as filed.

4. DT 04-071; Public Service Company of New Hampshire (PSNH)
(Stranded Cost Recovery Charge 2003 Reconciliation -
Cancellation of Settlement Conference)

A motion was made by Commissioner Morrison and seconded by Chairman Getz ratifying the September 15, 2004 secretarial letter which approved the cancellation of the September 16, 2004 settlement conference.

5. DW 04-144; Bedford Waste Services Corporation (Bedford)
(Petition for Increase in Rates - Request for Waiver)

A motion was made by Commissioner Morrison and seconded by Chairman Getz ratifying the September 15, 2004 secretarial letter granting the request to waive Puc 1604.01, except for 1604.01 (4).

6. DW 04-145; Bodwell Waste Services Corporation
(Petition for Increase in Rates - Request for Waiver)

A motion was made by Commissioner Morrison and seconded by Chairman Getz ratifying the September 15, 2004 secretarial letter granting the request to waive Puc 1604.01, except for 1604.01 (4) is granted.

7. DW 04-056; Pennichuck Water Works, Inc.
(Petition for Permanent and Temporary Rate Increase)

A motion was made by Commissioner Morrison and seconded by Chairman Getz to issue the Order Denying the Motion to Suspend and Approve Interventions and Procedural Schedule.

8. DT 01-221; Kearsarge Telephone Company
(Petition for Alternative Form of Regulation)

A motion was made by Commissioner Morrison and seconded by Chairman Getz to issue the Order on Recovery of Rate Case Expenses.

9. DW 04-048; Pennichuck Water Works, Inc.
(Petition for Valuation Pursuant to RSA 38:9 - Deliberations)

Chairman Getz noted that on March 25, 2004, the City of Nashua filed with the Commission a Petition for the Determination of the Fair Market Value of the Plants and Property of Pennichuck Water Works, Inc. (PWW); Pennichuck East Utilities, Inc. (PEU); and Pittsfield Aqueduct Company, Inc. (PAC). On April 5, 2004 Pennichuck Utilities filed a Motion to Dismiss in Full or Part or, Alternatively to Stay the Proceeding.

Chairman Getz stated that on June 22, 2004, the Commission issued an Order of Notice setting a Prehearing Conference for July 28, 2004 limited to the purpose of addressing motions for intervention, receiving a report from Nashua and the Pennichuck Utilities on the current procedural status of other court proceedings, and to hear oral argument on certain preliminary matters, namely: 1) whether it is appropriate for the Commission to proceed to consider Nashua's Petition for Valuation; 2) whether counsel for the Pennichuck Utilities is disqualified from representing it in this proceeding; and 3) whether Milford's Motion to Consider and Maintain Effectiveness of Existing Contract is premature.

Chairman Getz stated that based on the arguments presented at the July 28 hearing, he moved as follows:

First, to suspend consideration of Nashua's Motion to Disqualify pending completion of the transfer between New Hampshire Electric Cooperative and the Town of Ashland in a separate docket presently before the Commission.

Second, to hold Milford's motion in abeyance regarding its concerns that its bulk water supply contract with PWW remain in effect.

Third, to grant the intervention requests of Merrimack Valley Regional Water District, Merrimack River Watershed Council, Inc., Nashua Regional Planning Commission, customers Fred S. Teeboom, Barbara Pressly and Anheuser-Busch, Inc.; Representative Claire B. McHugh and the Towns of Amherst, Milford, Hudson, Litchfield, Pittsfield, Bedford, Raymond, Hollis, Londonderry, and Merrimack, inasmuch as they have satisfied the requirements of RSA 541-A:32 and NH Code Admin. Rules Puc 203.02 (b) and demonstrated that their privileges, immunities or other substantial interests may be affected by the proceeding.

Finally, with respect to Pennichuck's motion to dismiss to deny the motion. Chairman Getz, at a minimum, the record indicates that Nashua may properly pursue the taking of Pennichuck Water Works and a prehearing conference will be set for the purposes of hearing the positions of the parties, setting a procedural schedule and beginning discovery with respect to the information that will form the basis for testimony on valuation.

Chairman Getz also stated that there are significant threshold legal questions that have not been sufficiently developed in the materials and argument presented to the Commission, and those issues go to whether, as a matter of law, Nashua may take the assets of Pennichuck East and Pittsfield Aqueduct and, for that matter, whether Nashua may take assets of PWW that are not integral to the core system. In order to promote the prompt and orderly conduct of the proceeding and for the efficient use of the resources of the parties and the Commission, the Commission will provide the parties the opportunity to concurrently submit briefs on whether RSA Chapter 38 provides the City of Nashua authority to take PEU, PAC and the entirety of PWW. In addition, the Commission will direct Nashua to submit pre-filed direct testimony addressing its financial, technical and managerial capability to operate the system. The specific dates for the respective requirements will be set forth in the order that the Commission intends to issue next week.

Commissioner Morrison moved to approve.

Chairman Getz also noted that the written order constitutes the final action of the Commission and, therefore, to the extent there is any inconsistency between the order and the oral deliberation today, the written order will take precedence.

10. DRM 04-109; Commission Vote on Final Proposal
(Rulemaking Puc Part 1200 -
Administration of Uniform Utility Rules)
-

A motion was made by Chairman Getz and seconded by Commissioner Morrison approving the amended final proposal for filing it with JLCAR and asking for the conditional approval of the Committee.

11. DRM 04-169; Commission Vote on Interim Adoption
(Rulemaking Puc Part 1300 -
Local Telecommunications Competition)
-

A motion was made by Chairman Getz and seconded by Commission Morrison Getz adopting without amendment the current Puc Chapter 1300 Rules on an interim basis.

12. New Business
-

No New Business.

13. Miscellaneous Administrative Matters
-

Chairman Getz announced that the next Commission meeting would be held on Thursday, September 23, 2004 at 3:30 P.M.

A motion was made by Commissioner Morrison and seconded by Chairman Getz to adjourn this meeting. The meeting, therefore, adjourned at 3:46 P.M.